

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 607 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MURADKHAN AZAMKHAN CHAVDA

Versus

STATE OF GUJARAT

Appearance:

MR SHAKEEL A QURESHI for Petitioner
Mr K P Raval, APP for Respondent No. 1
SERVED for Respondent No. 2, 3, 4

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 10/01/97

ORAL JUDGEMENT

Rule. Mr KP Raval, learned APP waives service of Rule on behalf of respondent No.1.

By way of this Special Criminal Application, under Articles 226 and 227 of the Constitution of India, the petitioner seeks direction to quash the order at

Annexure 'A' dated 17.1.1996 passed by learned Judicial Magistrate, First Class, Desa and the order of the learned Sessions Judge, Palanpur dated 30.4.1996 rejecting the petitioner's Revision Application. The say of the petitioner is that he is the owner of one jeep bearing registration No.GJ-8-830 and he is using the jeep for his personal purpose and his son Iqbalkhan used to drive the said jeep. On 30.12.1995, when the petitioner's son along with other family members returning from Desa, PSI, Desa stopped the jeep and asked for the driving licence as well as the registration book. The son of the petitioner showed the licence and registration book. However, the Police Officer illegally detained the jeep and issued the memo to appear before the JMFC, Desa on 01.01.1996. The petitioner appeared before the JMFC, Desa on 1.1.1996 and also applied for custody of the jeep. It was declared by the learned Magistrate that the memo was not in the name of the Court but it was in the name of the RTO and a controversy has been raised that there is erasing and striking out of the name of the Court by substituting the name of RTO. It is not necessary to go into this controversy for the reason that on 10.1.1996, the RTO sent a letter to the Police Sub Inspector, Desa stating that the owner of the vehicle GJ-8-830, Shri Muradkhan has not compounded the offence and as such the police may proceed with the matter in accordance with law. It is not in dispute that if the offence is not compounded, the complaint has to be lodged before the Court empowered to take cognizance of the case and the case has to be proceeded in accordance with law. As soon as the complaint is lodged, the Court acquires jurisdiction to pass appropriate order regarding the custody and the disposal of the vehicle. It is not also in dispute that till today the police has not lodged any complaint. All the offences registered against the petitioner is of fine in which the limitation under section 467 of the Cr.P.C. is maximum six months. The order of the learned Magistrate and that of the learned Sessions Judge is not on merit of the case for the reason that no complaint was lodged before the Court of the Judicial Magistrate First Class, Desa. In view of this, the orders of the learned Magistrate and learned Sessions Judge will not come in the way of issuing a direction for custody of the vehicle in favour of the petitioner.

2. In view of the aforesaid, this Special Criminal Application is allowed. It is directed that the subject jeep No.GJ-8-839 which is in the custody of the petitioner in view of the interim order passed by this Court, shall continue to remain with him.

Rule made absolute to the aforesaid extent.

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